

Message Text

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ACTION EUR-12

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EB-07 EA-07 FRB-03 INR-07 NEA-10 NSAE-00 USIA-06

OPIC-03 SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 AGRE-00

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E.O. 11652: N/A

TAGS: TPHY, OECD

SUBJECT: TRANSFER OF TECHNOLOGY - JANUARY 17-18

MEETING OF OECD AD HOC POLICY GROUP ON MNES ON UNCTAD

CODE OF CONDUCT.

1. SUMMARY. GROUP B MEMBERS OF UNCTAD GROUP OF EXPERTS ON CODE OF CONDUCT FOR TRANSFER OF TECHNOLOGY HELD PRODUCTIVE 2 DAY MEETING TO DEVISE STRATEGY FOR NEXT UNCTAD SESSION, AND TO MAKE PLANS FOR RE-DRAFT OF SEVERAL SECTIONS OF THE GROUP B DRAFT CODE. AGREEMENT WAS REACHED THAT SECTIONS ON PREAMBLE, DEFINITIONS AND SCOPE OF APPLICATION, OBJECTIVES AND PRINCIPLES, SPECIAL MEASURES FOR LDCS AND RESTRICTIVE BUSINESS PRACTICES (RBPS) WOULD BE RE-DRAFTED BY INDIVIDUAL COUNTRIES PRIOR TO THE NEXT SESSION OF THE SAME GROUP, MARCH 7-9. END SUMMARY.

2. DEFINITIONS. EXTENSIVE DISCUSSION WAS HELD ON HOW TO DEFINE "INTERNATIONAL" TRANSFER OF TECHNOLOGY AND APPLICATION OF THE CODE TO PARENT/SUBSIDIARY RELATIONSHIPS, AS WELL AS OTHER MINOR QUESTIONS IN THIS
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SECTION. GENERAL GROUP B STANCE WAS THAT THE ONLY TECHNOLOGY TRANSFER THAT CAN BE TREATED UNDER THE CODE IS THAT WHICH CROSSES NATIONAL BOUNDARIES (I.E., EXPORT/IMPORT), AND THAT PARENT/SUBSIDIARY TRANSACTIONS MUST BE INCLUDED, ALTHOUGH SOME (FRG, CANADA) EXPRESSED RESERVATIONS ON THE LATTER POINT AS IT RELATES TO RBPS. U.S. SUGGESTED POSSIBILITY THAT

PARENT/SUBSIDIARY RELATIONSHIPS BE INCLUDED BUT WITH NATIONAL TREATMENT STANDARD FOR SUBSIDIARIES. THERE WAS NO RESPONSE ONE WAY OR THE OTHER. THE U.S. HAS RESPONSIBILITY FOR DRAFTING THIS SECTION.

3. OBJECTIVES AND PRINCIPLES. GENERAL DISCUSSION WAS HELD ON SEVERAL ISSUES SUCH AS ACCESS TO TECHNOLOGY, UNPACKAGING, RBPS, GUARANTEES, NATIONAL CAPABILITIES, ETC. GROUP B MEMBERS ELABORATED OBJECTIONS TO SOME OF THE G-77 PROVISIONS AND DISCUSSED THOSE ELEMENTS OF VARIOUS EXISTING DRAFTS WHICH MIGHT BE INCORPORATED INTO A REVISED TEXT. SWEDEN WILL PREPARE A NEW PAPER IN THIS AREA.

4. SPECIAL MEASURES FOR LDCS. AS IN THE OBJECTIVES AND PRINCIPLES SECTION, GROUP B GENERALLY FELT THAT POSITIVE LANGUAGE SHOULD BE DEVELOPED TO EMPHASIZE THE DEVELOPMENT ASPECTS OF TECHNOLOGY AND THE NEED TO STRENGTHEN THE TECHNOLOGICAL CAPABILITIES OF RECIPIENT COUNTRIES. AT THE SAME TIME STRONG OBJECTION WAS VOICED TO G-77 PROVISIONS WHICH CALL ON DCS TO GRANT VARIOUS FISCAL AND CREDIT INCENTIVES. THE FRG WILL WORK ON THIS SECTION.

5. PREAMBLE. JAPAN, FOLLOWING SOME GENERAL COMMENTS ON THE G-77 PAPER, WILL PREPARE A PRELIMINARY DRAFT ON THIS SECTION.

6. RBPS. ALTHOUGH NO DETAILED DISCUSSION WAS UNDER-
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TAKEN, GROUP B OBVIOUSLY VERY CONCERNED ABOUT THIS SECTION. SOME TOOK POSITION THAT IT IS NOT POSSIBLE TO CONSIDER PRACTICES WHICH DO NOT FALL WITHIN OUR DEFINITION OF RBPS, AND THAT THOSE IN THE G-77 LIST OF 40 WHICH DO NOT FIT OUR DEFINITION MUST BE EXCLUDED. OTHERS, E.G. SWITZERLAND AND SWEDEN, SAID THAT CONSIDERATION SHOULD BE GIVEN TO OPENING UP THE SUBJECT AND, IN ADDITION TO OUR STANDARD DEFINITION, APPLYING THE TEST OF WHETHER OR NOT THE PRACTICE HAS AN ADVERSE EFFECT ON TECHNOLOGY TRANSFER. GROUP B MAY NOT WISH TO FORMALLY SUBMIT A NEW TEXT IN MARCH, BUT IT WAS AGREED THAT A THOROUGH EXAMINATION BE GIVEN INCLUDING THE DRAFTING OF TENTATIVE TEXTS TO BE USED AS AMMUNITION AT THE NEXT UNCTAD SESSION. FOR THIS PURPOSE THE U.S. AND THE EEC AGREED TO PREPARE PRELIMINARY PAPERS. IT WAS ALSO AGREED THAT RBP EXPERTS SHOULD COME TO THE MARCH 7-9 OECD MEETING TO HAVE A FULL DISCUSSION.
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Message Attributes

Automatic Decaptioning: X
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Disposition Date: 22 May 2009
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